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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,294	10/26/2001	Lawrence J. Karr	50037.65USU1/177809.2	7483

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EXAMINER

NGUYEN, DUC M

ART UNIT PAPER NUMBER

2685

DATE MAILED: 07/30/2003

10

Please find below and/or attached an Office communication concerning this application or proceeding.

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**SUPPLEMENTAL**  
**Office Action Summary**

Application No.  
**10/044,294**

Applicant(s)  
**Karr**

Examiner  
**Duc M. Nguyen**

Art Unit  
**2685**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on May 13, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above, claim(s) 2-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 40-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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### DETAILED ACTION

This action is in response to the applicant's response (pre-amendment) filed on 5/13/03. Due to cross-mail problem, an Office Action was mailed before the amendment is entered. Therefore, this supplemental action is issued in response to the amendment. Claims 1-43 are now pending in the present application.

#### *Election/Restriction*

1. Applicant's election with traverse of the Restriction requirement in Paper No. 5 is acknowledged. The traversal is on the ground(s) that the **amended** claims have a common subject matter. This is not found persuasive because the claims are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be **separately usable**. In the instant case, invention of Group II (claims 2-11) has separate utility such as a localcast transmitter interfaces with components such as an encoder and a packet assembler details, invention of Group III (claims 12-19) has separate utility such as a broadcast transmitter interfaces with components such as a precision time base 1-ppm oscillator, a subcarrier generator and a field-programmable gate array, invention of Group IV (claims 20-29) has separate utility such as a mobile transceiver interfaces with a real-time component and can operate in a direct or repeater mode, invention of Group V (claims 30-33) has separate utility such as rebroadcasting a received data with a local format, invention of Group

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VI (claims 34-39) has separate utility such as encoding and transmitting a data stream requiring low-latency transmission time.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-VI, restriction for examination purposes as indicated is still deemed proper and is therefore made FINAL.

2. Since Applicant has conditionally elected claims 1, 40-43 in Paper No. 6, Group II (claims 2-11), Group III (claims 12-19), Group IV (claims 20-29), Group V (claims 30-33) and Group IV (claims 34-39) are withdrawn from further consideration by the examiner as being for the nonelected invention. An action for Group I (claims 1, 40-43) follows.

***Information Disclosure Statement***

3. The references listed in the information disclosure statements submitted on 5/10/02 and 5/19/03 have been considered by the examiner (see attached PTO-1449).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims **1, 42-43** are rejected under 35 U.S.C. 102(b) as being anticipated by **Chin et al** (US Pat No. **5,974,034**).

Regarding claim **1**, **Chin** discloses a wireless communication comprising

- a wide are (broadcast) transmitter for transmitting broadcast information as claimed (see Fig. 1, ref. 102, **col. 2, lines 35-39**), whereas the TDMA scheme transmission would read on the “predetermined schedule” as claims (see **col. 4, lines 12-34**);
- a localcast transmitter (local base stations) for transmitting local information as claimed (see Fig. 1, refs. 103-105, **col. 2, lines 39-42**);
- a mobile device for receiving broadcast information and local information as claimed (see Fig. 1, refs. 106 and **col. 2, lines 42-48**).

Regarding claim **42**, it is rejected for the same reason as set forth in claim 1 above, wherein the “local base station” would read on the “device” as claimed.

Regarding claim **43**, it is rejected for the same reason as set forth in claim 1 above, wherein the “user terminal” would read on the “mobile device” as claimed.

***Claim Rejections - 35 USC § 103***

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims **40-41** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chin**.

Regarding claim **40**, it is rejected for the same reason as set forth in claim **1** above. In addition, it would have been obvious for the local base station to transmit data to the mobile device in a “locally-unused FM frequency” as claimed, in order to comply with FCC regulations.

Regarding claim **41**, it is rejected for the same reason as set forth in claim **40** above. In addition, it is clear that the communication between the local base station and the mobile device is the two-way communication as claimed (see Fig. 1).

### ***Conclusion***

7. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for formal communications intended for entry)

(for informal or draft communications, please label “PROPOSED” or “DRAFT”)

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Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington VA, Sixth Floor (Receptionist).

Any inquiry concerning this communication or communications from the examiner  
should be directed to Duc M. Nguyen whose telephone number is (703) 306-4531, Monday-  
Thursday. Or to Edward Urban (Supervisor) whose telephone number is (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application should be  
directed to the Group receptionist whose telephone number is (703) 305-4700.

Duc M. Nguyen

A handwritten signature in black ink, appearing to read 'Duc M. Nguyen', with a long horizontal flourish extending to the right.

July 23, 2003